

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:12CR39
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
DANIEL OCHOA-GUERRA,)	
)	
Defendant.)	

The Court has received the Presentence Investigation Report and Addendum ("PSR"), and the parties' objections (Filing Nos. 45 and 46). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

Accordingly,

IT IS ORDERED:

1. The parties' objections (Filing Nos. 45 and 46) are denied in part and granted in part, as follows:
 - a. The Defendant's Objections to Paragraphs 11 and 12 are denied. The Defendant did not submit his version of the offense, and the probation officer is not at liberty to change the statement of a witness or a report of law enforcement.
 - b. The parties' Objections to Paragraph 28 are granted. The gun enhancement will not apply, and the guideline calculation will be adjusted accordingly.

c. The Defendant's Objection to Paragraph 52 is granted, and the officer will change the name Braso to Rensul, reflecting the Defendant's brother's name.

2. The Court intends to adopt the PSR in all other respects;

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 2 of this Order, these tentative findings are final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 15th day of February, 2013.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge